

REMARKS/ARGUMENTS

These amendments and remarks are responsive to the Office Action dated March 29, 2006. Presently, Claims 1-45 are pending in this case. Claims 1, 8 and 24 are independent. Claims 1, 7-9, 11, 13, 18-20, 22 and 30 have been amended. Support for these amendments may be found, *inter alia*, on page 3 of the original specification.

Summary of July 27, 2006 Interview

The Applicants would like to thank the Examiner for his courtesies and the opportunity to discuss the present application, the rejections and the cited reference. During the interview, the Examiner agreed that the present invention would be novel over the presently cited art (U.S. Patent No. 5,732,216 Logan et al.) if Applicants amended the claims to overcome the 35 U.S.C. §101 rejections.

Applicants have amended the claims in a manner discussed further herein, which is believed to overcome the 35 U.S.C. §101 rejections. As such, the claims are believed to be novel over the presently cited art.

Summary of Rejections

35 U.S.C. §101

In the March 3, Office Action, the Examiner rejected Claims 1 and 8 under 35 U.S.C. §101 as being directed to nonstatutory subject matter. According to the Examiner, the claims fail to define the hardware on which the invention is run. Applicants have amended Claims 1 and 8 to define the hardware. As such, for the reasons discussed below, these rejections are respectfully overcome.

35 U.S.C. §102(b)

In the March 3, 2006 Office Action, the Examiner rejected Claims 1-10, 12-19, 21-31, 33-41 and 44-45 under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 5,732,216 Logan et al. ("Logan"). According to the Examiner, Logan teaches every element of these claims. These rejections are respectfully traversed for at least the reasons set forth below and the reasons discussed during the July 27, 2006 interview.

35 U.S.C. 103(a)

The Examiner rejected Claims 11, 20, 32, 42 and 43 under 35 U.S.C. 103(a) as being unpatentable over Logan in view of U.S. Patent No. 5,732,216 to Agraharam ("Agraharam"). These claims depend from Independent Claims 1, 8 and 24 respectively. Since Claims 1, 8 and 24 are novel over Logan for the reasons discussed below, and Agraharam fails to cure the deficiencies of Logan, these rejections are respectfully traversed for at least the same reasons.

Analysis

35 U.S.C. §101

Claims 1 and 8 were rejected under 35 U.S.C. §101 as being directed to nonstatutory subject matter. According to the Examiner, the claims fail to define the hardware on which the invention is run.

Applicants have amended Claims 1 and 8 to include a description of hardware on which the invention runs. The claims have been amended to include that the electronic message is configured to be communicated from a sender's device to a recipient's device and that the identifier indicates a course of action to be taken by the recipient's device utilizing the sound file.

Based on these amendments, Applicants respectfully submit that the Claims are proper statutory subject matter and request that the Examiner reconsider and withdraw his 35 U.S.C. §101 rejections of these claims.

35 U.S.C. §102(b)

Claims 1-10, 12-19, 21-31, 33-41 and 44-45 under 35 U.S.C. §102(b) as being unpatentable over Logan.

Claim 1 of the present invention, as currently amended, recites an electronic message configured to be communicated between a sender's device and a recipient's device. The electronic message (e-mail) has a sound file attached and a predetermined identifier which both distinguishes the sound file from other files attached to the message and indicates a course of action to be taken by the recipient's device with the sound file.

Logan describes an audio program distribution system in which a host system organizes and transmits program segments to client subscriber locations. Program segments are associated with descriptive subject matter segments, and the subject matter segments may be used to generate both text and audio cataloging presentations to enable the user to more easily identify and select desirable programming. (*See Abstract*) While the first referenced portion of Logan cited by the Examiner discloses sending an email message with a sound file attached, it makes no reference to selecting an identifier for that file which (1) distinguishes that sound file from other sound files attached to that email and (2) indicates a course of action to be taken by the recipient's computer with that sound file. Additionally, the remaining portions of Logan cited by the Examiner as disclosing the remaining elements of Claim 1 are (1) unrelated to the email citation just discussed, and (2) do not disclose an identifier associated with a sound file, which both distinguishes that sound file from other sound files attached to an electronic message and

indicates a course of action to be taken by the recipient's computer with that sound file. Accordingly, Logan fails to disclose every element from Claim 1 and Claim 1 is novel over Logan.

Claims 8 and 24 are not rendered obvious for similar reasons as those discussed with regard to Claim 1. Accordingly, the rejections to Claims 1, 8 and 24 are respectfully traversed. The Examiner is respectfully requested to reconsider and withdraw his 35 U.S.C. §102 rejections of Claims 1, 8 and 24.

Claims 2-7, 9-10, 12-19, 21-23, 25-31, 33-41 and 44-45 depend from Claims 1, 8 and 24 respectively. As such these claims are novel over Logan for at least the reasons discussed above. The Examiner is respectfully requested to reconsider and withdraw his rejections of Claims 2-7, 9-10, 12-19, 21-23, 25-31, 33-41 and 44-45.

35 U.S.C. 103(a)

The Examiner rejected Claims 11, 20, 32, 42 and 43 under 35 U.S.C. 103(a) as being unpatentable over Logan in view of Agraharam. According to the Examiner, Logan teaches all elements of these claims except that it does not explicitly teach of an adjunct to a sender or a receiver for performing these steps and Agraharam teaches an adjunct device. Aside from the fact that it is improper to combine these references in the manner suggested by the Examiner for the reasons discussed above, Logan does not disclose all of the other elements of these Claims as asserted in these rejections. Agraharam fails to cure the deficiencies of Logan described above. As such, these Claims are novel over Logan, Agraharam and any combination thereof. The Examiner is respectfully requested to reconsider and withdraw his rejection of Claims 11, 20, 32, 42 and 43 under 35 U.S.C. 103(a).

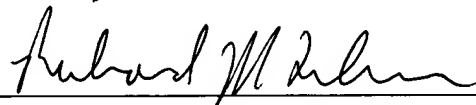
Other Matters

No new matter has been added.

The claims currently presented are proper and definite. Allowance is accordingly in order and respectfully requested. However, should the Examiner deem that further clarification of the record is in order, we invite a telephone call to the Applicants' undersigned attorney to expedite further processing of the application to allowance.

Dated: New York, New York
July 31, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard M. Lehrer", is written over a horizontal line.

Richard M. Lehrer, Reg. No. 38,536
Boris A. Matvenko, Reg. No. 48,165
Attorney for Applicants
MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.
Chrysler Center
666 Third Avenue
New York, New York 10017
(212) 935-3000
(212) 983-3115